

# State Emergency Response Commission (SERC)

## Policy and Procedures for Public Access to Tier Two Reports

**Purpose:** The primary purpose of this policy is to establish procedures for the SERC, DEC, and LEPCs to receive and process requests for Tier Two information to meet Alaska statutory requirements (see below). The primary intent is to ensure that the release of Tier Two data will not be applied to conduct illegal activities which could jeopardize the public safety and welfare of the citizens of Alaska. None of the Homeland Security precautions identified in these procedures stop the processing of a valid request for information about hazardous materials by citizens. The State of Alaska remains in full compliance of Community Right-to-Know (CRTK) laws.

**General:** Tier Two reports must be submitted annually by facilities with reportable quantities of chemicals and hazardous substances in their inventory (fixed facilities only; transportation facilities are not required to report under Federal and State law). Reports must be submitted to the Local Emergency Planning Committee (LEPC), local fire department, and the Alaska Department of Environmental Conservation (DEC, on behalf of the SERC). Reports are due by March 1 of each year and represent inventories for the previous calendar year.

Under the Federal Emergency Planning and Community Right-to-Know Act (EPCRA), concerned citizens and the general public may request Tier Two information on facilities in their community.

Following the September 11, 2001, terrorist attack on the United States, concerns regarding the use of extremely hazardous substances as chemical weapons needed to be considered. CRTK and Homeland Security concerns are not diametrically opposed and these procedures comply with the requirements of each concern.

### **Summary of Statutory Authorities:**

**AS 26.23 (Military Affairs and Veterans - Disasters):** For the SERC, Section 26.23.07 states:

“(e) The commission shall:

- (7) establish procedures for receiving and processing requests from the public for information under 42 U.S.C. 11044, including tier II information under 42 U.S.C. 11022; procedures established under this paragraph shall designate the Department of Environmental Conservation as the state agency to receive and process these requests on behalf of the commission;”



For LEPCs, Section 26.23.071 states:

“(g) Each local emergency planning committee shall

- (1) establish procedures for receiving and processing requests from the public for information under 42 U.S.C. 11044, including tier II information under 42 U.S.C. 11022;”

**AS 29.35 (Municipal Government):** Section 29.35.500 outlines Tier Two reporting requirements, including items to be reported under State law.

**AS 40.25 (Public Records and Recordors):** Section 40.25.120(a)(10)(c) states in part:

- “(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except
- (10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information
- (C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.”

### **Other Precautionary Measures:**

**Secure Storage:** Tier Two data managers should make a conscious effort to secure Tier Two data as much as possible (e.g., locking file cabinet for hard copy data and CDs with Tier Two data, as well as overall security of information stored in computers).

**General Process for Receiving and Disseminating Tier Two Information:**

